

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Implementation of Section 716 and 717 of)	CG Docket 10-213
The Communications Act of 1934, as Enacted)	
by the Twenty-First Century Communications)	
and Video Accessibility Act of 2010)	

**PUBLIC NOTICE COMMENTS – 2020 CVAA BIENNIAL REPORT TENTATIVE
FINDINGS**

**Telecommunications for the Deaf and Hard of Hearing, Inc.
National Cued Speech Association
Association of Late-Deafened Adults
National Association of the Deaf
Deaf and Hard of Hearing Consumer Advocacy Network
Cerebral Palsy and Deaf Organization
National Association of State Administrators of the Deaf and Hard of Hearing
Deaf Seniors of America
Hearing Loss Association of America
CueSign, Inc.
California Coalition of Agencies Serving the Deaf and Hard of Hearing
Universal Interface & Information Technology Access-RERC**

Eric Kaika, Chief Executive Officer
Telecommunications for the Deaf and Hard of
Hearing, Inc.
945 Thayer Ave #8009
Silver Spring, MD 20910
kaika@TDIforAccess.org

Benjamin Lachman
Vice President
National Cued Speech Association
5619 McLean Dr.
Bethesda, MD 20814
blachman@cuedspeech.org

Richard Brown, President
Association of Late-Deafened Adults
8038 MacIntosh Lane, Suite 2
Rockford, IL 61107
president@alda.org

Howard Rosenblum, Chief Executive Officer
Zainab Alkebsi, Policy Counsel
National Association of the Deaf
8630 Fenton Street, Suite 820
Silver Spring, MD 20910
howard.rosenblum@nad.org
zainab.alkebsi@nad.org

Mark Hill, President
Cerebral Palsy and Deaf Organization
14510 Homecrest Road
Unit #3008
Silver Spring, Maryland 20906
president@cpado.org

Alfred Sonnenstrahl, Vice President
Deaf Seniors of America
5619 Ainsley Court
Boynton Beach, FL 33437
alsonny@icloud.com

Amy Crumrine, President
CueSing, Inc.
cuesign.inc@gmail.com

Gregg Vanderheiden PhD., Director
Rehabilitation Engineering Research Center on
Universal Interface & Information
Technology Access (IT-RERC)
Trace Research & Development Center
University of Maryland
4130 Campus Drive
College Park, MD 20742
greggv@umd.edu

Zainab Alkebsi, Chair
Deaf and Hard of Hearing Consumer
Advocacy Network
8630 Fenton Street, Suite 820
Silver Spring, MD 20910-3803
zainab.alkebsi@nad.org

Sherri Collins, President
National Association of State Agencies of the
Deaf and Hard of Hearing, Inc.
100 N. 15th Ave., Suite 104
Phoenix, AZ 85007
S.Collins@acdhh.az.gov

Barbara Kelley, Executive Director
Lise Hamlin, Director of Public Policy
Hearing Loss Association of America
6116 Executive Blvd, Suite 320
Rockville, MD 20852
bkelly@hearingloss.org
lhamlin@hearingloss.org

Sheri Farinha, Chair
California Coalition of Agencies Serving the
Deaf and Hard of Hearing
4044 N. Freeway Blvd
Sacramento, CA 9583
sfarinha@norcalcenter.org

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Universal Interface & Information Technology Access-RERC**

Telecommunications for the Deaf and Hard of Hearing, Inc. (“TDI”), National Cued Speech Association (“NCSA”), Association of Late-Deafened Adults (“ALDA”), National Association of the Deaf (“NAD”), Deaf and Hard of Hearing Consumer Advocacy Network (“DHHCAN”), Cerebral Palsy and Deaf Organization (“CPDO”), National Association of State Administrators of the Deaf and Hard of Hearing (“NASADHH”), Deaf Seniors of America (“DSA”), Hearing Loss Association of America (“HLAA”), CueSign, Inc., and California Coalition of Agencies Serving the Deaf and Hard of Hearing (collectively, “Consumer Groups”), and Universal Interface & Information Technology Access RERC (“IT-RERC”) (the Consumer

Groups and IT-RERC collectively, the “Commenters”) submit these comments in response to the Federal Communications Commission’s (the “Commission”) Public Notice released on March 2, 2020,¹ seeking comments on its tentative findings for the 2020 biennial report to Congress required by the Twenty-First Century Communications and Accessibility Act of 2010 (“CVAA”). As specified in the Public Notice, the Commenters have identified specific findings on which they are commenting and have adhered to the organization and structure of the Public Notice.

I. COMPLIANCE WITH SECTIONS 255, 716, 718

A. Accessibility

1. Section 255 and 716: Telecommunications and Advanced Communications Services and Equipment – Accessibility Improvements

The Commenters are commenting on the Commission’s tentative findings that “the accessibility and usability of many services and equipment covered by sections 255, 716, and 718 ... have improved since the 2018 CVAA Biennial report’s release[.]”² Although the Commenters agree generally that some improvements have occurred, the Commission should revise its tentative findings to address the concerns raised by the Commenters.

For example, the Commission should revise its tentative findings to address concerns regarding compliance by wireless carriers and other providers of interconnected messaging applications with their obligations to deploy Text-to-911 to PSAPs that request them, and how quickly providers are doing so.³ Moreover, because Real Time Text (“RTT”) to 911 is the next

¹ *Consumer and Governmental Affairs Bureau Seeks Comment on Tentative Findings for the 2020 Twenty-First Century Communications and Video Accessibility Act Biennial Report*, CG Docket No. 10-213, Public Notice, DA 20-768 (rel. Jul. 21, 2020) (“*Public Notice*”).

² *Public Notice*, Attachment at ¶ 2.

³ *See* Comments of TDI *et al*, CG Docket No. 10-213, at 3-4 (filed Apr. 14, 2020) (“*Commenters Comments*”).

step in improving accessibility for deaf and hard of hearing persons to reach emergency services, the Commission should expressly address the status of availability of RTT-to-RTT 911 in the Report.⁴ To the extent data regarding these issues not available, the Commission should collect it.

The Report also should address the fact that DeafBlind individuals continue to face challenges when attempting to register for relay services. These challenges include the need for sighted assistance to submit required proof-of-residency documentation which has become even more difficult now than ever due to the COVID-19 crisis and resulting physical distancing and other precautions.⁵ Moreover, the Report should acknowledge that the financial qualifications for the National DeafBlind Equipment Distribution Program (“NDBEDP”) continue to result in at least some DeafBlind individuals having to choose between access to equipment and job opportunities.⁶

Finally, the Commission should revise its tentative findings to reflect that wireless providers’ data caps and throttling practices negatively affect accessibility, in particular for deaf and hard of hearing persons. As the Commenters’ prior comments explained, consumers who are deaf and hard of hearing use substantial amounts of data and rely extensively on bandwidth sensitive applications.⁷ These needs often result in overage fees or the need to purchase more expensive plans that include unlimited data even when the data used for non-routine communications is minimal.⁸ The negative effects are strongest on individuals who lack other means to purchase sufficient broadband capacity at home, who typically rely on free WiFi

⁴ *Id.* at 4.

⁵ *Id.*

⁶ *Id.*

⁷ *Id.* at 7.

⁸ *Id.*

connections in public locations that now, as a result of the COVID-19 crisis, are closed or more difficult to access, or who only have access to public WiFi that is insufficient for video services.² The Commenters respectfully urge the Commission to incorporate into the Report concerns in the record about (1) the costs of unlimited data, (2) data caps, and (3) throttling policies, including how these issues are further exacerbated during times of national emergency such as the COVID-19 crisis.

2. Section 718: Internet Browsers Built into Mobile Phones

The Commenters previously did not address the issues regarding Internet browsers built into mobile phones and therefore provide no comment on the Commission’s tentative findings in Paragraph 10.

B. Usability

The Commenters are commenting on the Commission’s tentative finding that “over the past two years, there have been continued improvements in the usability of services and equipment that are subject to sections 255, 716, and 718” but that “some consumers continue to face difficulties finding accessible information and customer care services.”¹⁰ The Commenters recommend that the Commission should address in this section three points previously raised by the Commenters but that remain unaddressed by the tentative findings.

First, the Commission’s tentative findings appropriately acknowledge that deaf and hard of hearing people continue to struggle to find wireless phones that meet their accessibility needs.¹¹ However, the Report should go further and acknowledge that finding a hearing-aid

² Commenters Comments at 8.

¹⁰ *Public Notice*, Attachment at ¶ 11.

¹¹ *Public Notice*, Attachment at n. 40 (citing Commenters Comments at 6).

compatible phone will remain a challenge facing hard of hearing users until 100% of mobile phone offerings are hearing-aid compatible.¹²

Second, the Commenters explained that some DeafBlind individuals have difficulty obtaining necessary training on how to set up or use Braille display devices obtained through the NDBEDP.¹³ The Report should recognize that a lack of such training directly affects the ability for DeafBlind individuals to set up and enjoy functionally equivalent services to those enjoyed by seeing and hearing consumers.

Third, deaf and hard of hearing persons with mobility disabilities continue to find that many smartphones in the market today do not meet their needs. As the Commenters explained, deaf and hard of hearing persons with mobility disabilities need larger devices than other consumers, and tablets with cellular functions available in the market today still lack full functionality that make such devices inadequate.¹⁴ The Report should acknowledge that device size remains a barrier to usability for these consumers.

C. Inclusion of People with Disabilities in Product and Service Design and Development

The Commenters respond to the Commission's tentative finding that "covered entities continue to include people with disabilities in product and service design and development" based on reports "that industry has engaged consumers in product development, conferences, one-on-one meetings, and product demonstrations."¹⁵ The Commenters appreciate the Commission's recognition that "not all industry members engage with the disability community, and that those that do sometimes fail to engage marginalized communities, such as members of

¹² See Commenters Comments at 6, n. 10.

¹³ *Id.* at 4.

¹⁴ *Id.* at 5.

¹⁵ *Public Notice*, Attachment at ¶ 13 (footnotes omitted).

the deafblind community.”¹⁶ The Commenters urge the Commission to revise its tentative findings to encourage industry to include DeafBlind and individuals with other disabilities with very specific needs and/or requirements in the design process. The Commission also should emphasize that such inclusion will provide valuable guidance to companies in developing products that meet the CVAA’s requirements for *all* users with disabilities rather than only the most common scenarios.

II. ACCESSIBILITY BARRIERS TO NEW COMMUNICATIONS TECHNOLOGIES

The Commenters respond to the Commission’s tentative finding that accessibility concerns remain regarding new communications and other technologies that otherwise could substantially improve quality of life for consumers with disabilities.¹⁷ The Commenters appreciate that the Commission’s tentative findings recognize ongoing concerns about the accessibility of video conferencing, video games, virtual reality and augmented reality services for people with disabilities.¹⁸ As the Commenters explained, much remains to be done to achieve full accessibility and the Commenters look forward to continued engagement and outreach with relevant stakeholders. Although the Commenters agree that collaboration between stakeholders can help address the remaining (or yet-to-be-known) accessibility gaps, the Commenters respectfully urge the Commission to revise its tentative findings to include specific recommendations regarding how to bridge the accessibility gaps for new communications technologies.

¹⁶ *Public Notice*, Attachment at ¶ 14 (citing Commenters Comments at 6).

¹⁷ *Public Notice*, Attachment at ¶ 15.

¹⁸ *Public Notice*, Attachment at ¶ 15 (citing Commenters Comments at 8-9).

For example, video game providers could incorporate relay services into games.¹⁹ Moreover, the Commenters identified specific accessibility concerns in connection with video conferencing services that should be incorporated into the tentative findings. Specifically, relay services remain inaccessible through video conferencing because they are tethered to ten-digit telephone numbers and otherwise are not interoperable with video phones provided by Video Relay Service providers. Video conferencing services also lack interoperability, and need to allow users to prioritize specific functions to better support the needs of deaf and hard of hearing users.²⁰

Furthermore, as the Commenters previously noted, many video conferencing tools were not designed with deaf or hard of hearing persons in mind and therefore present unique challenges for users with these disabilities.²¹ For example, there are inadequate “hand raising” mechanisms on video conferencing platforms.²² Some platforms have video focused on the “active speaker” when the focus should be on a sign language interpreter or users are unable to simultaneously view both speaker and interpreter.²³ And, some platforms lack the ability to have video displayed alongside a screen share which removes critical functions for a deaf or hard of hearing participant.²⁴

The Commenters’ concerns about the lack of full accessibility of video conferencing services are even more relevant as the COVID-19 crisis increases the demand for alternative

¹⁹ Commenters Comments at 8-9 (explaining accessibility challenges for gaming and virtual reality and other augmented reality products and services).

²⁰ *Id.* at 10 (citations omitted).

²¹ *See id.* at 11.

²² *See id.*

²³ *See id.*

²⁴ *See id.*

communications tools while society prioritizes physical distancing. Without full accessibility of video conferencing services, individuals that use relay services could miss out on many social and/or work-related opportunities that require use of video conferencing.

The Commission should revise its tentative findings to address these issues.

III. COMPLAINTS RECEIVED PURSUANT TO SECTION 717

The Commenters previously did not address the issues complaints under Section 717 and therefore provide no comment on the Commission’s tentative findings in Paragraphs 19-27.

IV. EFFECT OF SECTION 717’S RECORD KEEPING AND ENFORCEMENT REQUIREMENTS ON THE DEVELOPMENT AND DEPLOYMENT OF NEW COMMUNICATIONS TECHNOLOGIES

The Commenters respond to the Commission’s tentative finding that “the accessibility recordkeeping and enforcement requirements have not hindered the development and deployment of new communications technologies” in part, due to “the absence of any comment that these requirements have hindered the development and deployment of new communications technologies.”²⁵ As previously explained, the Commenters support continued application of Section 717’s recordkeeping and enforcement requirements to new communications technologies.²⁶ And in order to provide Congress with a more accurate picture of the level of collaboration between industry and consumers in the design, development and marketing stages of the products and services, the Report should include discussion of the Commenters’ suggestions regarding the need for additional reporting requirements.

Specifically, the Commission should revise its tentative findings to incorporate the Commenters’ proposal for industry participants “to produce periodic activity reports that specifically account for research and development activities that directly involve the deaf and

²⁵ *Public Notice*, Attachment at ¶ 28.

²⁶ *See Commenters Comments* at 11-12.

hard of hearing community.”²⁷ The Commission also should incorporate the Commenters’ recommendation that “industry members [who] have requested waivers because accessibility is not achievable should be required to report on the number of non-accessible and accessible units sold.”²⁸ In addition to providing Congress a more accurate view of collaboration between industry and consumers, the additional reporting requirements we propose ultimately will advance the goals of improved accessibility to new communications technologies for the deaf and hard of hearing community.

V. CONCLUSION

The Commenters appreciate the opportunity to submit comments with respect to this important Report. We look forward to continuing our work with the Commission to assure accessibility requirements are met under the CVAA and other laws.

Respectfully submitted,

/s/ *Eric Kaika*

Eric Kaika, Chief Executive Officer
Telecommunications for the Deaf and Hard of
Hearing, Inc.
945 Thayer Ave #8009
Silver Spring, MD 20910
kaika@TDIforAccess.org

Benjamin Lachman
Vice President
National Cued Speech Association
5619 McLean Dr.
Bethesda, MD 20814
blachman@cuedspeech.org

Richard Brown, President
Association of Late-Deafened Adults
8038 MacIntosh Lane, Suite 2
Rockford, IL 61107
president@alda.org

²⁷ *Id.* at 12.

²⁸ *Id.*

Howard Rosenblum, Chief Executive Officer
Zainab Alkebsi, Policy Counsel
National Association of the Deaf
8630 Fenton Street, Suite 820
Silver Spring, MD 20910
howard.rosenblum@nad.org
zainab.alkebsi@nad.org

Mark Hill, President
Cerebral Palsy and Deaf Organization
14510 Homecrest Road
Unit #3008
Silver Spring, Maryland 20906
president@cpado.org

Alfred Sonnenstrahl, Vice President
Deaf Seniors of America
5619 Ainsley Court
Boynton Beach, FL 33437
alsonny@icloud.com

Amy Crumrine, President
CueSing, Inc.
cuesign.inc@gmail.com

Gregg Vanderheiden PhD., Director
Rehabilitation Engineering Research Center on
Universal Interface & Information
Technology Access (IT-RERC)
Trace Research & Development Center
University of Maryland
4130 Campus Drive
College Park, MD 20742
greggvanderheiden@umd.edu

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Zainab Alkebsi, Chair
Deaf and Hard of Hearing Consumer
Advocacy Network
8630 Fenton Street, Suite 820
Silver Spring, MD 20910-3803
zainab.alkebsi@nad.org

Sherri Collins, President
National Association of State Agencies of the
Deaf and Hard of Hearing, Inc.
100 N. 15th Ave., Suite 104
Phoenix, AZ 85007
S.Collins@acdhh.az.gov

Barbara Kelley, Executive Director
Lise Hamlin, Director of Public Policy
Hearing Loss Association of America
6116 Executive Blvd, Suite 320
Rockville, MD 20852
bkelly@hearingloss.org
lhamlin@hearingloss.org

Sheri Farinha, Chair
California Coalition of Agencies Serving the
Deaf and Hard of Hearing
4044 N. Freeway Blvd
Sacramento, CA 9583
sfarinha@norcalcenter.org